

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CSX CORPORATION,

Plaintiff,

V.

THE CHILDREN'S INVESTMENT FUND  
MANAGEMENT (UK) LLP, THE CHILDREN'S  
INVESTMENT FUND MANAGEMENT  
(CAYMAN) LTD., THE CHILDREN'S  
INVESTMENT MASTER FUND, 3G CAPITAL  
PARTNERS LTD., 3G CAPITAL PARTNERS, L.P.,  
3G FUND, L.P., CHRISTOPHER HOHN, SNEHAL  
AMIN, AND ALEXANDRE BEHRING, A/K/A  
ALEXANDRE BEHRING COSTA,

Defendants.

THE CHILDREN'S INVESTMENT MASTER  
FUND,

Counterclaim and  
Third-Party Plaintiff,

V.

CSX CORPORATION AND MICHAEL J. WARD,

## Counterclaim and Third-Party Defendants.

3G CAPITAL PARTNERS LTD., 3G CAPITAL PARTNERS, L.P. AND 3G FUND, L.P.

Counterclaim Plaintiffs,

V.

CSX CORPORATION AND MICHAEL WARD,

### Counterclaim Defendants.

**PLEASE TAKE NOTICE** that upon the accompanying Memorandum of Law and all prior pleadings and proceedings had herein, Defendants The Children's Investment Fund Management (UK) LLP, The Children's Investment Fund Management (Cayman) Ltd., The Children's Investment Master Fund, 3G Capital Partners Ltd., 3G Capital Partners, L.P., 3G Fund, L.P., Christopher Hohn, Snehal Amin and Alexandre Behring will move this Court before the Honorable Lewis A. Kaplan, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse located at 500 Pearl Street, New York, New York, on a date and at a time to be determined by the Court, to strike portions of Certain CSX witness statements as hearsay.

Dated: New York, New York  
May 19, 2008

KIRKLAND & ELLIS LLP

By: /s/ Andrew M. Genser  
Peter Duffy Doyle  
Andrew M. Genser

153 East 53rd Street  
New York, New York 10022  
(212) 446-4800

*Attorneys for 3G Capital Partners Ltd,  
3G Capital Partners, LP, 3G Fund, LP and  
Alexandre Behring (a/k/a Alexandre Behring  
Costa)*

SCHULTE ROTH & ZABEL LLP

By: /s/ Howard O. Godnick  
Howard O. Godnick  
Michael E. Swartz  
Yocheved Cohen

919 Third Avenue  
New York, New York 10022  
(212) 756-2000

*Attorneys for The Children's Investment Fund  
Management (UK) LLP, The Children's  
Investment Fund Management (Cayman) LTD,  
The Children's Investment Master Fund,  
Christopher Hohn and Snehal Amin*